

Message Text

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FM AMCONSUL DURBAN

TO SECSTATE WASHDC 2177

INFO AMEMBASSY PRETORIA

AMCONSUL CAPE TOWN

AMCONSUL JOHANNESBURG

AMEMBASSY MASERU

AMEMBASSY GABORONE

AMEMBASSY LONDON

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C O R R E C T E D C O P Y DURBAN 0165

CAPE TOWN ALSO FOR EMBASSY

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TAGS: PGOV, SF

SUBJ: SOUTH AFRICA AND TRANSKEI DIFFER OVER CITIZENSHIP
STATUS OF URBAN AFRICANS

REF: DURBAN 0135

1. SUMMARY:

DESPITE PUBLICATION OF THE TRANSKEI CONSTITUTION, SOUTH AFRICAN
AND TRANSKEI GOVERNMENTS STILL DIFFER FUNDAMENTALLY ON IMPORTANT
QUESTION OF CITIZENSHIP OF SECOND AND THIRD GENERATION URBAN

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AFRICANS WITH TRANSKEIAN ORIGINS. TRANSKEI CHIEF MINISTER
KAISER MATANZIMA INSISTS THAT THESE AFRICANS WILL BE ABLE TO
CHOOSE WHETHER TO RELINQUISH THEIR SOUTH AFRICAN CITIZENSHIP
AND BECOME CITIZENS OF THE TRANSKEI. SAG, HOWEVER, CLAIMS

SUCH INDIVIDUALS WILL AUTOMATICALLY LOSE SOUTH AFRICAN CITIZENSHIP WITH THE TRANSKEI'S INDEPENDENCE AND IF THE TRANSKEI DOES NOT ACCEPT THEM, THEY WILL BECOME STATELESS. TO PERSUADE URBAN AFRICANS TO ACCEPT TRANSKEI CITIZENSHIP THE SAG HAS ANNOUNCED THAT TRANSKEI CITIZENS WILL RECEIVE PREFERENTIAL TREATMENT IN HOUSING AND EMPLOYMENT. IF THE TRANSKEI IS SUCCESSFUL IN MAINTAINING ITS POSITION, THE SAG WILL BE BACK TO SQUARE ONE WITH ITS PROBLEM OF WHAT TO DO WITH SOUTH AFRICA'S LARGE AND GROWING POPULATION OF DISENFRANCHISED URBAN AFRICANS.
END SUMMARY

2. PUBLICATION OF THE TRANSKEI CONSTITUTION AS WELL AS SEVERAL WEEKS OF PUBLIC DISCUSSION OF IMPORTANT CITIZENSHIP PROVISIONS BY TRANSKEIAN AND SOUTH AFRICAN GOVERNMENT OFFICIALS HAS DONE LITTLE TO LIFT CLOUD OF UNCERTAINTY HANGING OVER CITIZENSHIP STATUS OF MANY OF THE APPROXIMATELY 1.3 MILLION AFRICANS OF TRANSKEI ORIGIN LIVING IN SOUTH AFRICA'S WHITE AREAS. PROBLEM IS NOT ONLY ONE OF EXEGESIS (THE TWO GOVERNMENTS INTERPRET DIFFERENTLY WORDING OF ONE CRUCIAL CLAUSE) BUT IS FUNDAMENTALLY POLITICAL.

3. SECTIONS 57 AND 58 OF TRANSKEI CONSTITUTION STATE THE FOLLOWING "SHALL BECOME" CITIZENS OF THE TRANSKEI:

A) PERSONS BORN IN THE TRANSKEI PRIOR TO INDEPENDENCE;

B) PERSONS BORN OUTSIDE OF THE TRANSKEI PRIOR TO INDEPENDENCE WHOSE FATHERS WERE BORN IN THE HOMELAND;
C) OTHERS WHO HAVE REGISTERED AS TRANSKEI CITIZENS;

D) PERSONS BORN OUTSIDE OF THE TRANSKEI AFTER INDEPENDENCE PROVIDED THEIR FATHER IS A TRANSKEI CITIZEN AND THAT THEY DO NOT BECOME A CITIZEN OF ANOTHER COUNTRY AT BIRTH;

E) PERSONS FOUND "TO BE PREDOMINANTLY XHOSA-SPEAKING OR SOTHO-SPEAKING AND TO BE A MEMBER OF, OR DESCENDED FROM,
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OR ETHNICALLY, CULTURALLY OR OTHERWISE ASSOCIATED WITH ANY TRIBE RESIDENT IN A DISTRICT OF TRANSKEI, SHALL BE REGISTERED AS AND BECOME A CITIZEN OF TRANSKEI."

F) PROVISION IS ALSO MADE FOR ACQUISITION OF CITIZENSHIP BY NATURALIZATION.

4. POINT OF LEGAL CONTENTION BETWEEN SOUTH AFRICAN AND TRANSKEI GOVERNMENT IS SECTION 58(2) (PARA 2E ABOVE) WHICH DEALS WITH SECOND AND SUBSEQUENT GENERATIONS OF URBAN TRANSKEIANS. APPARENTLY STANDING ON THIS CATCH-ALL SECTION, MINISTER OF BANTU ADMINISTRATION M.C. BOTHA HAS INSISTED THAT ALL AFRICANS OF

TRANSKEI ORIGIN WILL AUTOMATICALLY BECOME CITIZENS OF THE TRANSKEI UPON INDEPENDENCE. MATANZIMA, HOWEVER, HAS POINTEDLY ANNOUNCED THAT THE TRANSKEI WILL APPLY ITS OWN INTERPRETATION TO THE CONSTITUTION AND NOT FORCE AFRICANS LIVING IN URBAN AREAS TO BECOME TRANSKEI CITIZENS. ACCORDING TO MATANZIMA, THE CONSTITUTION MERELY DEFINES A CLASS OF PERSONS ELIGIBLE FOR TRANSKEI CITIZENSHIP, BUT DOES NOT AUTOMATICALLY FORCE CITIZENSHIP UPON THEM.

5. BOTHA RESPONDED BY DECLARING THAT AFRICANS OF TRANSKEI ORIGIN WHO DO NOT ACCEPT CITIZENSHIP IN THE INDEPENDENT HOMELAND WILL LOSE THEIR SOUTH AFRICAN CITIZENSHIP AND BECOME STATELESS. ATTEMPTING TO USE BOTH CARROT AND STICK, HE ADDED IN LATE APRIL THAT THOUGH TRANSKEI CITIZENS WILL BE ALIENS, THEY WILL RECEIVE PREFERENTIAL TREATMENT--AS WILL OTHER BLACKS WHO HAVE A CLEAR RELATIONSHIP WITH THEIR ETHNIC HOMELAND--IN EMPLOYMENT, HOUSING AND HOSPITALIZATION. (THIS IS CONSISTENT WITH THE SAG'S EARLIER REQUIREMENT OF HOMELAND CITIZENSHIP TO BE ELIGIBLE FOR A THIRTY-YEAR LEASE ON TOWNSHIP HOUSES.) THE STICK IS FIRST BEING APPLIED TO BLACK BUSINESSMEN AND PROFESSIONALS WHO IN THE FUTURE WILL NOT BE ALLOWED TO OPERATE IN URBAN AREAS UNLESS THEY HAVE A CITIZENSHIP CERTIFICATE CERTIFICATE FROM ONE OF THEIR HOMELANDS.

6. REACTION TO THE SAG'S ATTEMPT TO EXPATRIATE OR LEAVE STATELESS AFRICANS OF TRANSKEIAN ORIGIN HAS BEEN ALMOST UNANIMOUSLY NEGATIVE. BOTH UNITED AND PROGRESSIVE-REFORM PARTY SPOKESMEN HAVE STRENUOUSLY CRITICIZED THE GOVERNMENT'S STAND. RADCLYFFE CADMAN, UP
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SPOKESMAN ON RACE RELATIONS, CHARGED THAT SAG WAS "BACK TO SQUARE ONE" IN THE ATTEMPT TO FIND A SOLUTION TO THE PROBLEM OF URBAN AFRICANS. PRP MP HELEN SUZMAN WARNED THAT THE GOVERNMENT'S ACTION WILL BE CONSIDERED A GROSS FORM OF RACIAL DISCRIMINATION BY THE WORLD.

7. WITWATERSRAND UNIVERSITY LAW PROFESSORS JOHN DUGARD AND RONNIE GOLDBLATT POINTED OUT A FURTHER WEAKNESS IN THE SAG'S PLAN BY NOTING THAT THOUGH AFRICANS BORN IN SOUTH AFRICA PROPER MIGHT ACQUIRE TRANSKEI CITIZENSHIP AT BIRTH, THEY WILL STILL BECOME SOUTH AFRICAN CITIZENS UNDER SOUTH AFRICAN CITIZENSHIP ACT. THAT ACT CURRENTLY GRANTS SOUTH AFRICAN CITIZENSHIP TO ALL PERSONS BORN IN SOUTH AFRICA AND STATES THAT A SOUTH AFRICAN CITIZEN SHALL LOSE HIS CITIZENSHIP ONLY IF HE BECOMES A CITIZEN OF ANOTHER COUNTRY BY A "VOLUNTARY AND FORMAL ACT." IT DOES, HOWEVER, ALLOW THE MINISTER OF INTERIOR TO DEPRIVE A CITIZEN OF HIS CITIZENSHIP IF HE "DEEMS IT IN THE PUBLIC INTEREST." DUGARD AND GOLDBLATT BELIEVE MINISTERIAL ACTION OR AN AMENDMENT TO THE CITIZENSHIP ACT WILL BE REQUIRED TO EXPATRIATE SECOND AND SUBSEQUENT GENERATION URBAN TRANSKEIANS.

8. COMMENT: STAKES IN THIS TUSSLE BETWEEN THE SAG AND TRANSKEI GOVERNMENTS OVER THE STATUS OF URBAN AFRICANS OF TRANSKEI ORIGIN ARE EXTREMELY HIGH. MATANZIMA'S INSISTENCE THAT TRANSKEI URBAN AFRICANS BE ALLOWED THEMSELVES TO CHOOSE WHETHER TO RELINQUISH THEIR SOUTH AFRICAN CITIZENSHIP FLIES IN THE FACE OF THE SAG'S PROGRAM TO UNDERCUT ANY CLAIMS AFRICANS MIGHT HAVE TO SHARE IN SOUTH AFRICA'S WEALTH AND POLITICAL DEVELOPMENT. IF THE TRANSKEI SUCCEEDS IN RESISTING THE SAG, THERE WILL BE NO INCENTIVE FOR THE REMAINDER OF SOUTH AFRICA'S LARGE, AND STILL GROWING, URBAN AFRICAN POPULATION TO ACCEPT HOMELAND CITIZENSHIP AND FORFEIT THEIR CLAIM TO SHARE IN SOUTH AFRICA'S FUTURE. THIS LEAVES THE SAG TRULY BACK AT SQUARE ONE WITH A LARGE DISENFRANCHISED AFRICAN POPULATION AND EIGHT COSTLY WHITE ELEPHANTS--THE HOMELANDS.

9. THOUGH MATANZIMA HAS A FEW ADVANTAGES--ONCE INDEPENDENT THE TRANSKEI CAN LEGALLY DECIDE WHO ITS CITIZENS SHALL BE--THE SAG STILL HAS EXTENSIVE LEVERAGE, PRINCIPALLY THE TRANSKEI'S ALMOST TOTAL FINANCIAL DEPENDENCE. IT WOULD SEEM TIGHTLY UNLIKELY THAT THE SAG WOULD REFRAIN FROM USING ITS (FINANCIAL) LIMITED OFFICIAL USE
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INFLUENCE TO PERSUADE MATANZIMA TO ALTER HIS POSITION.
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